

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Forest Associates, LLC,**  
Appellant,

**v.**

**Black Hawk County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 12-07-0573**  
**Parcel No. 8913-26-129-020**

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On November 19, 2013, the above-captioned appeal came on for telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Attorney Eric Johnson, Waterloo, Iowa represented Appellant Forest Associates, LLC. Assistant County Attorney Dave Mason represented the Board of Review. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Forest Associates, LLC, is the owner of property located at 130 Leland Avenue, Waterloo, Iowa. The property was classified commercial as of January 1, 2012, and valued at \$57,070, representing \$10,290 in land value and \$46,780 in improvement value. There was no change in value from the 2011 assessment.

Forest Associates protested its assessment to the Black Hawk County Board of Review on the grounds that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2) and that there was a change in value since the last assessment under sections 441.37(1)(b) and 441.35(2). The Board of Review denied the protest stating “insufficient evidence presented to prove a downward change in value since last assessment.”

Forest Associates then appealed to this Board. In its appeal, Forest Associates appears to reassert a claim of over-assessment stating “that the tax should be lowered to reflect the property’s fair market value.” Because there was no change in value from the previous assessment, the only ground this Board can consider on appeal is downward change in value. Iowa Code §§ 441.35(2), 441.37(1)(b); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). This is the only ground available in an “interim year,” such as 2012, when the assessor has not changed the property’s assessment. § 441.35(2).

The property record card indicates the subject is a two-story, three-family conversion with an unfinished attic built in 1908. It has 2735 square feet of above-grade living area; a full, unfinished basement; and a deck. It also has a 576 square-foot detached garage built in 1962. The site is 0.209 acres.

The subject property was listed in July 2011 for \$49,900. Forest Associates purchased it in August 2011 for \$50,000, which it asserts is the correct fair market value of the property. It also submitted a Multiple Listing Sheet (MLS) that indicates the subject was a Real Estate Owned (REO) property time of sale. Forest Associates did not offer any other evidence.

The Board of Review submitted an October 2013 letter from Black Hawk County Assessor Tami McFarland. Contrary to the MLS sheet, which reports the property was an REO at time of sale, McFarland’s letter explains that in her opinion the August 2011 sale price was a normal transaction.

### ***Conclusion of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal

Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property shall be one hundred percent of its actual value. § 441.21(1)(a).

In a non-reassessment or "interim" year, when the property's assessment has not changed, a taxpayer may challenge its assessment on the basis that there has been a change in value from the immediately preceding assessment year. Iowa Code §§ 441.35(2), 441.37(1)(b); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Id.*, 252 N.W.2d at 450. The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451.

Forest Associates provided an MLS sheet for the subject property, which indicates the subject was an REO sale at the time it was purchased in August 2011. The sale price in an abnormal transaction is not to be considered unless the distorting factors can be clearly accounted for. Iowa

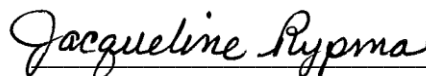
Code § 441.21(1)(b). Section 441.21(1)(b) states that foreclosures are abnormal transactions. We do note conflicting evidence from the Black Hawk County Assessor Tami McFarland, who reports the August 2011 sale was a normal transaction. Regardless, Forest Associates failed to provide sufficient evidence of both the January 1, 2011, and the January 1, 2012, fair market values. Both values are required to support a claim of change in value. *Equitable Life Ins. Co.*, 252 N.W.2d at 450.

THE APPEAL BOARD ORDERS the assessment of Forest Associates, LLC's property located at 130 Leland Avenue, Waterloo, Iowa, as determined by Black Hawk County for January 1, 2012, is affirmed.

Dated this 27th day of December, 2013.



Karen Oberman, Presiding Officer



Jacqueline Rypma, Board Member

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